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Vessel Assist, Phil Delano, Gary Burks,  
and Boat U.S. Towing Services

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

GEORGE LOUIS PEREZ, JR., JANICE L. PELLIZAR,  
Plaintiff,  
vs.  
VESSEL ASSIST, PHIL DELANO, GARY BURKS, BOAT U.S. TOWING SERVICES,  
Defendants.

Case No. CV 06-02585 EDL

**ORDER GRANTING DEFENDANTS'  
MOTION TO DISMISS**

On September 26, 2006 defendants Vessel Assist, Phil Delano, Gary Burks and Boat U.S. Towing Service specially appeared and filed a motion to dismiss on the ground that the summons and complaint were not served in compliance with Federal Rule of Civil Procedure 4(m), or in the alternative, that the service was insufficient. At the November 14, 2006 hearing on defendants motion to dismiss, this Court held that Plaintiffs had not properly served Defendants, but allowed Plaintiffs an additional 45 days from the date of the hearing to complete service, and denied Defendants' motion without prejudice.

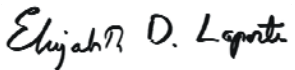
On January 8, 2007, Defendants renewed their motion to dismiss on the same grounds. Plaintiff opposed the renewed motion, arguing that service had been completed on Defendant Phil Delano. Plaintiffs also argued that the service on Mr. Delano was effective service on Defendant Vessel Assist. Plaintiffs' opposition was silent as to any service on Defendants Boat

1 U.S. Towing Services and Gary Burks. The court held a hearing on February 13, 2007.  
2 Plaintiffs were represented by Nathan Paco, Law office of Nathan Paco. Specially Appearing  
3 Defendants were represented by Jennifer Tomlin Sanchez, Gibson Robb & Lindh LLP.

4 For the reasons stated in Defendants' motion to dismiss and at the hearing, the Court  
5 holds that Plaintiffs have not properly served Defendants. Plaintiffs did not dispute that Boat  
6 U.S. Towing Services and Gary Burks were never served with the summons and complaint.  
7 Plaintiffs failed to show Defendant Phil Delano was personally served, and failed to show that  
8 service on Vessel Assist was completed. Accordingly, Defendants' motion to dismiss is  
9 GRANTED. Plaintiffs' complaint against all Defendants is dismissed without prejudice.

10 **IT IS SO ORDERED.**

11  
12 Dated: \_\_March 1, 2007\_\_

  
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ELIZABETH D. LAPORTE  
United States Magistrate Judge